

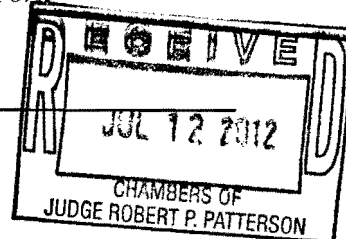


U.S. Department of Justice

United States Attorney
Southern District of New York

Submit + file

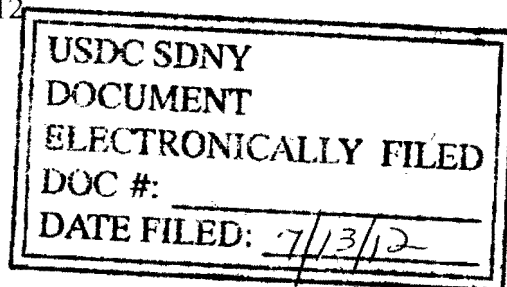
The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007



July 12, 2012

BY HAND

The Honorable Robert P. Patterson
United States District Judge
500 Pearl Street
New York, NY 10007



Re: United States v. Daniel B. Karron,
12-CV-118 (RPP)

Dear Judge Patterson:

The Government respectfully submits this letter in opposition to plaintiff Daniel B. Karron's letter, dated July 11, 2012 ("Ltr."), requesting an additional 60 days' extension of time to identify the specific items that she claims were seized unlawfully from her apartment more than five years ago. For the reasons set forth below, and based on the materials that plaintiff has submitted thus far, it has now become abundantly clear that plaintiff has no good-faith basis for bringing this motion. Instead, in the Government's view, this motion is nothing more than another attempt by plaintiff to collaterally attack her criminal conviction — an attack, moreover, premised on the remarkable theory that, contrary to the jury's guilty verdict, Karron did not misuse federal grant funds in purchasing the seized items because she had actually spent her own money in making the purchases. To vindicate the strong federal interests in the finality of the criminal verdict against Karron, as well as the finality of the \$4 million civil judgment that Judge Buchwald has imposed on plaintiff, plaintiff's Rule 41(g) motion should be denied with prejudice.

By Order dated June 6, 2012, this Court held that Daniel B. Karron has not satisfied her burden of showing that the items that were seized from her home on June 26, 2007, were purchased with non-grant, personal funds. (Order at 7). Moreover, this Court held that, even assuming arguendo that plaintiff could show that certain discrete items were paid for using funds drawn from her personal bank accounts, in light of the fact that the Government has proven at Karron's criminal trial that plaintiff has misused federal grant funds to pay for personal expenses (such as back rent) and because "money is considered fungible," "it may be difficult for Plaintiff to show what she actually purchased with her personal funds during the Grant period." (*Id.*). Finally, in light of the \$4 million civil judgment that has been entered against plaintiff, this Court concluded that "it is appropriate that the seized property held by the Government . . . be used to satisfy that civil judgment." (*Id.*). However, in recognition of the fact that "Plaintiff is proceeding pro se," the Court gave plaintiff another chance to make the requisite threshold

The Honorable Robert P. Patterson
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showing by directing her, within “thirty (30) days” from the date of its Order, “to identify to the Court the specific items of property that she claims should be returned to her.” (Id.) (emphasis in original). The Order also directed plaintiff to “provide the Court with factual support, in the form of documents, bank records, or credit card statements, which demonstrate that those specific items were not purchased with the funds provided by NIST [the National Institute of Standards and Technology].” (Id. at 8).

In her latest submission, plaintiff made no attempt whatsoever to identify which specific item(s) — among the list of 82 items seized from her home on June 26, 2007 (Exhibit A) — were purchased with her own personal funds. See Ltr. at 1. Instead, plaintiff states that “because of the poor state of [her] records from that period” and “the volume of detail” (Ltr. at 1), she has been unable to do so. (Ltr. 1). Moreover, plaintiff has not offered any original underlying records in support of her claim that items were “over-seized,” but attaches spreadsheet summaries that were never introduced in any prior proceedings and whose accuracy or reliability is completely unknown and unverified.

In contrast, as the Government has proven beyond a reasonable doubt at plaintiff’s criminal trial, CASI had no sources of funding independent of NIST. (See GXs 112, 113, attached hereto as Exhibit B). Indeed, if plaintiff’s current claim that the seized items were bought using her own money were credited by the criminal jury, she could not have been convicted of any crime, for the simple reason that she would not have been guilty of misapplying federal funds that is the basis for a violation under 18 U.S.C. § 666. Moreover, during the pendency of the criminal case, plaintiff repeatedly represented to this Court that she was indigent, could not come up with the \$30,000 to pay for duplication and discovery costs, and requested the Government to advance her that expense. (Order at 3-4 & n.4). These representations substantially undermine plaintiff’s current claim that she actually had undisclosed sources of income that she previously hid from the Court and the Government and thus she was able to pay for computers and electronic equipment using her own money, even “after the project was suspended” and federal funding was cut off. (Ltr. at 2). Finally, as the Court recognized in its Order, even if, arguendo, plaintiff could show that certain purchases were initially paid for using funds drawn from her personal accounts (and plaintiff hasn’t even shown this much in her latest submission), given the fungibility of money and her massive misuse of NIST funds to pay for personal expenses that totaled at least \$125,000, see Order at 3 (restitution in the amount of \$125,000); see also Exhibit C, plaintiff does not and cannot show “what she actually purchased with her personal funds during the Grant period.” (Order at 7).

At bottom, the fact that plaintiff has not made any attempt, even at this late date, to identify with particularity specific items that were allegedly “over-seized” suggests that the plaintiff has no good faith basis to believe that any particular items were purchased with her personal funds. Instead, through the guise of a Rule 41(g) motion, plaintiff seeks merely to engage in a fishing expedition involving years-old records that she admits are in a “poor state.” Moreover, as demonstrated by plaintiff’s complete failure to comply with this Court’s June 6, 2012 Order, plaintiff appears to want to re-litigate the entire theory of the Government’s criminal case again — i.e., claiming that she paid for all the seized items, not just certain specified items, using her own personal funds, not federal money. And she does so now after her conviction has been affirmed on appeal, her § 2255 motion has been denied, and a \$4 million civil judgment has been entered against her by Judge Buchwald.

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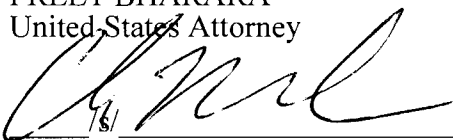
Because the motion is meritless, and because plaintiff has made no attempt to comply with the Court's June 6, 2012 Order even after the Court gave her a second chance to make the necessary threshold showing, and even after multiple prior requests for extension of time were granted without objection from the Government (see 12 Civ. 118, Dkt. Entries # 12, 15), plaintiff should not be allowed to drag out the disposition of this motion for yet another 60 days.

For all the foregoing reasons, plaintiff's Rule 41(g) motion should be denied with prejudice.

Respectfully submitted,

PREET BHARARA
United States Attorney

By:



Chi T. Steve Kwok
Christian R. Everdell
Assistant United States Attorneys
(212) 637-2415 / (212) 637-2556

Enclosures

cc: Daniel B. Karron, pro se (by Federal Express)

EXHIBIT A

List of Items seized pursuant to warrant.

6/26/07, Case 16227

#	Seizure Date	Seizure time	Seizure Location	Item Description/ID
1	6/26/2007	8:00 AM	A	server casi 192.168.0.118
2	6/26/2007	8:00 AM	A	server casi 02 216.213.166.227
3	6/26/2007	8:00 AM	A	server casi 04 SGI Octane 2
4	6/26/2007	8:00 AM	A	server casi 16 192.168.0.116
5	6/26/2007	8:00 AM	A	server case black
6	6/26/2007	8:00 AM	A	rackmount computer IU
7	6/26/2007	8:00 AM	A	Overland neo
8	6/26/2007	8:00 AM	A	Raid Array 1-10 this location
9	6/26/2007	8:00 AM	A	Raid Array Bottom this location
10	6/26/2007	8:00 AM	A	server casi 100 192.168.0.100
11	6/26/2007	8:00 AM	A	Extreme network summit 7 switch
12	6/26/2007	8:30 AM	A	UPS APC (power source)
13	6/26/2007	8:30 AM	A	Power supply (blue)
14	6/26/2007	8:30 AM	A	Hatch Panel
15	6/26/2007	9:00 AM	A	Linksys Router antenna and power supply
16	6/26/2007	9:00 AM	A	16 port switch Linksys and power supply
17	6/26/2007	9:00 AM	A	D-Link Router DCM-202 + power supply
18	6/26/2007	9:00 AM	A	Projector Screen
18A	6/26/2007	9:00 AM	A	Controller Box for Projector Screen
19	6/26/2007	9:00 AM	A	Hatch Panel
20	6/26/2007	9:30 AM	A	Sony Cybershot Camera DSC-F707
21	6/26/2007	9:30 AM	A	Digital Camera Batteries
22	6/26/2007	9:30 AM	A	Remote Power Control/BayTech
23	6/26/2007	9:30 AM	A	InFocus LCD Projector with mount
24	6/26/2007	10:00 AM	A	server casi 112 192.168.8.112
25	6/26/2007	10:00 AM	A	server casi 03 192.168.0.103
26	6/26/2007	10:00 AM	A	HP Laserjet 1200 printer
27	6/26/2007	10:00 AM	A	Linksys Print Server PSUS4
28	6/26/2007	10:00 AM	A	HP Laserjet 4 with Document Feeder
29	6/26/2007	10:30 AM	A	casi 15 192.168.0.115
30	6/26/2007	10:30 AM	A	GBC Shredmaster 3260x shredder
31	6/26/2007	10:30 AM	A	Check Scanner RDS-3000
32	6/26/2007	10:30 AM	A	Visioneer Strobe XP Paper port (1 of 2)
33	6/26/2007	10:30 AM	A	Neat Receipts Receipt Scanner
34	6/26/2007	10:30 AM	A	Card Size Scanner Corex Cardscan
35	6/26/2007	10:30 AM	A	Visioneer Strobe XP Paper port (2 of 2)
36	6/26/2007	10:30 AM	B	Dust Buster
37	6/26/2007	11:00 AM	B	Kitchen Classics Blender by Waring
38	6/26/2007	11:00 AM	A	Porter Cable Tiger Saw quickcharge
39	6/26/2007	11:00 AM	A	Two (2) Batteries and charger for item 38
40	6/26/2007	11:00 AM	A	Three (3) boxes Dewalt drill bits
41	6/26/2007	11:00 AM	A	Porter Cable Rechargeable Tool Set
42	6/26/2007	11:00 AM	A	Set of 3 rechargeable flashlights w/chargers
43	6/26/2007	11:00 AM	A	Monitor Casi 12 Samsung Syncmaster (1)

All seizure locations are identified letter coded rooms within 300 E. 33rd Street, Apartment 4N, New York, NY

List of Items seized pursuant to warrant.

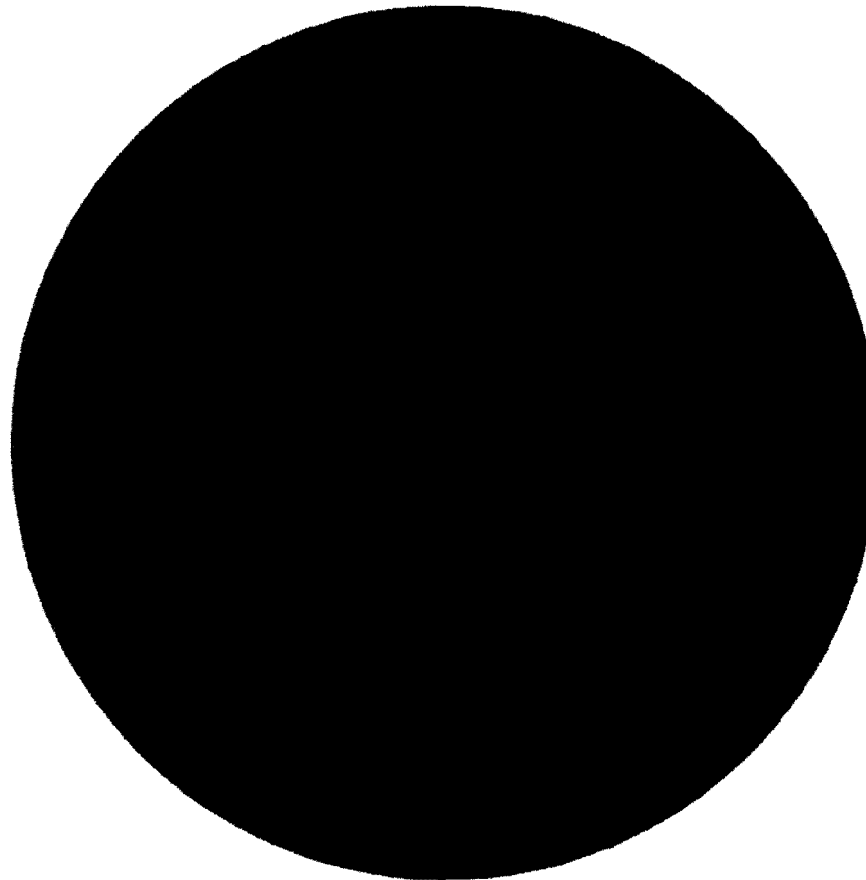
6/26/07, Case 16227

44	6/26/2007	11:00 AM A	Monitor Casi 02 Samsung Syncmaster (2)
45	6/26/2007	11:00 AM A	IBM Thinkpad laptop with docking station
46	6/26/2007	11:00 AM A	Large STABILA bubble level
47	6/26/2007	11:00 AM A	Dremel Rechargeable Rotary Tool w/charger
48	6/26/2007	11:00 AM A	Flatbed Scanner RICOH Aficio IS330
49	6/26/2007	11:00 AM A	CTX LCD Monitor w/power supply
50	6/26/2007	11:00 AM A	Docking Station casi 17 (no laptop)
51	6/26/2007	11:30 AM A	SGI Monitor casi (1) casi 104
52	6/26/2007	11:30 AM A	SGI Monitor (2)
53	6/26/2007	11:30 AM A	SGI Monitor (3) large widescreen casi 104
54	6/26/2007	11:30 AM A	Standalone Air Conditioning Unit
55	6/26/2007	12:00 PM A	Six (6) ergotron monitor swing mounts
56	6/26/2007	12:00 PM A	Raid Enclosures four (4)
57	6/26/2007	12:00 PM A	Miscellaneous keyboards/peripherals
58	6/26/2007	12:00 PM E	casi 007 svr SGI Octane 2 216.213.116.232
59	6/26/2007	12:00 PM E	Raid array (1 of 2 this location)
60	6/26/2007	12:00 PM E	Raid array (2 of 2 this location)
61	6/26/2007	12:30 PM E	casi 11 svr SGI Octane 2 216.213.166.238
62	6/26/2007	12:30 PM E	casi 13 216.213.166.238
63	6/26/2007	12:30 PM E	casi 13 Samsung Syncmaster Monitor
64	6/26/2007	12:30 PM E	SGI monitor (1 of 4 this location) casi 11
65	6/26/2007	12:30 PM E	SGI monitor (2 of 4 this location)
66	6/26/2007	12:30 PM E	SGI monitor (3 of 4 this location) w/spkrs
67	6/26/2007	12:30 PM E	SGI monitor (4 of 4 this location) casi 007
68	6/26/2007	1:30 PM E	DTS-3
69	6/26/2007	1:30 PM E	HP Scanjet 5P
70	6/26/2007	1:30 PM E	SGI DVD-ROM External Drive
71	6/26/2007	1:30 PM A	Linksys Security Webcam
72	6/26/2007	1:30 PM E	SGI Software
73	6/26/2007	1:30 PM E	SGI Controller (NFI)
74	6/26/2007	1:30 PM E	Set of 2 rechargeable flashlights w/chargers
75	6/26/2007	1:30 PM A	Shoe Rack
76	6/26/2007	1:30 PM A	Set of multicases with hardware (31 ct.)
77	6/26/2007	1:30 PM E	Four (4) ergotron monitor swing mounts
78	6/26/2007	1:30 PM E	Miscellaneous peripherals and cables
79	6/26/2007	2:00 PM Basement Storage 55	GPS System
80	6/26/2007	2:00 PM Basement Storage 55	DDS-3 Tape Backup
81	6/26/2007	2:00 PM Basement Storage 56	Circular Saw
82	6/26/2007	2:00 PM A	Folding Ladder

All seizure locations are identified letter coded rooms within 300 E. 33rd Street, Apartment 4N, New York, NY

EXHIBIT B

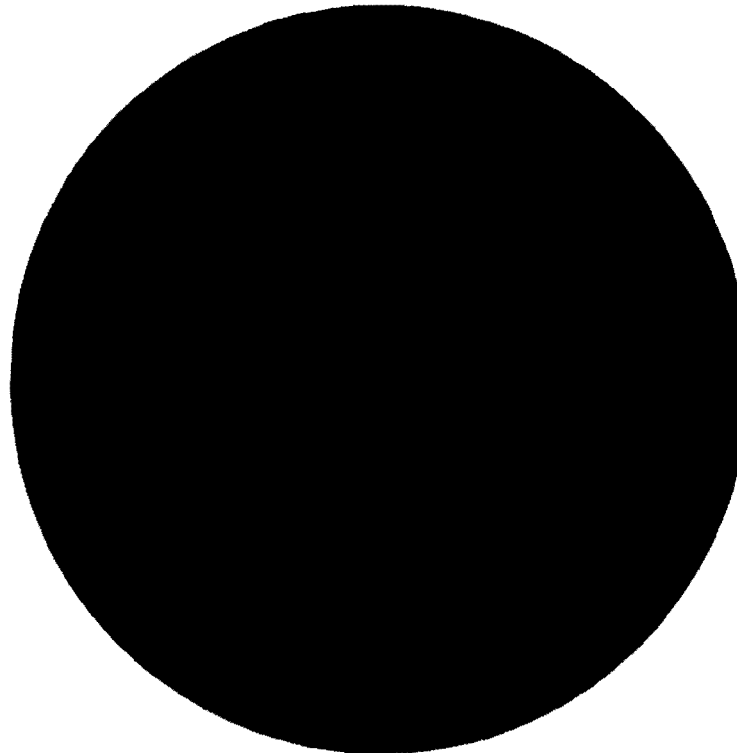
**CASI Bank Accounts Source of Funds for Year 1
(10/1/2001 -9/30/2002)**



NIST ATP Gra



**CASI Bank Accounts Source Of Funds Year 2
(10/1/2002 -6/30/2003)**



- NIST ATP Grant
- Miscellaneous Deposits

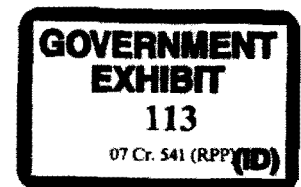
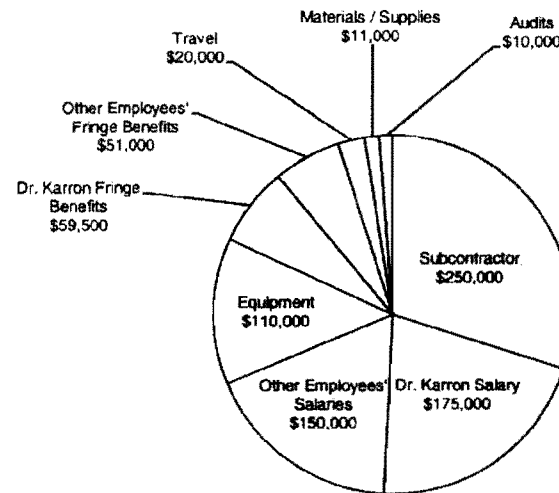
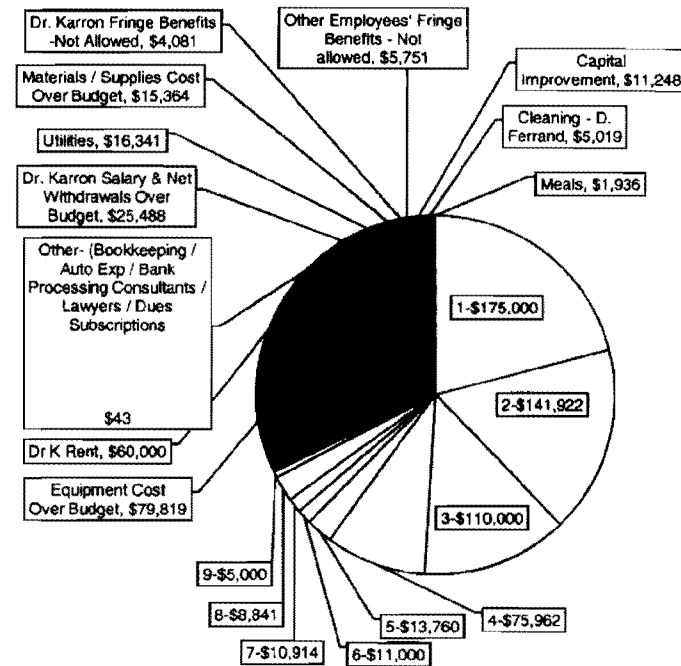


EXHIBIT C

Budget for Year 1
(10/1/2001 to 9/30/2002)



Actual Cost for Year 1
(10/1/2001 - 10/10/2002)

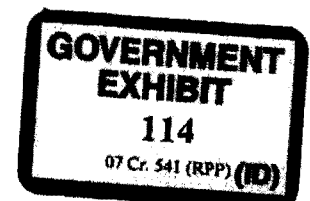
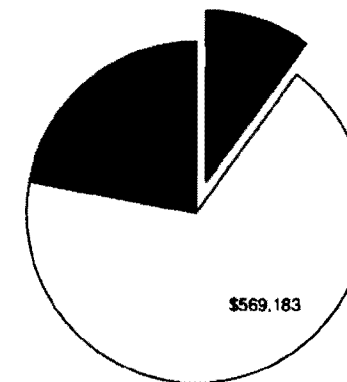


Amendment # 2 - 1/4/02

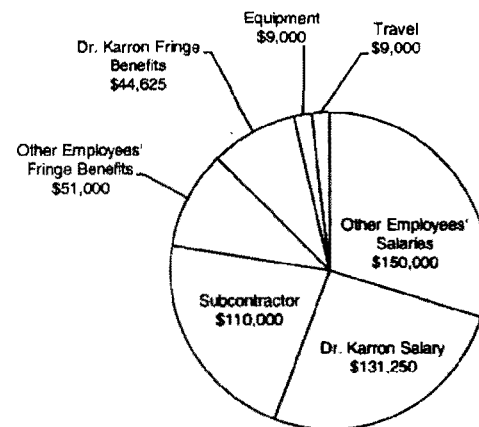
10/1/2001 - 10/10/2002

	Budget	CASI Spent	Difference	% Difference
Subcontractor	\$250,000	\$75,962	(174,038)	-69.62%
Dr. Karron Salary	\$175,000	\$200,488	25,488	14.56%
Other Employees' Salaries	\$150,000	\$141,922	(8,078)	-5.39%
Equipment	\$110,000	\$189,819	79,819	72.56%
Dr. Karron Fringe Benefits	\$59,500	\$19,163	(40,337)	-67.79%
Other Employees' Fringe Benefits	\$51,000	\$20,222	(30,778)	-60.35%
Travel	\$20,000	\$10,914	(9,086)	-45.43%
Materials / Supplies	\$11,000	\$26,364	15,364	139.68%
Audits	\$10,000	\$5,000	(5,000)	-50.00%
Dr K Rent	\$0	\$60,000	60,000	-
Other- (Bookkeeping / Auto Exp / Bank Processing Consultants / Lawyers / Dues Subscriptions)	\$0	\$43,592	43,592	-
Utilities	\$0	\$16,341	16,341	-
Dr. Karron Fringe Benefits - Not Allowed	\$0	\$4,081	4,081	-
Other Employees' Fringe Benefits - Not allowed	\$0	\$5,751	5,751	-
Capital Improvement	\$0	\$11,248	11,248	-
Cleaning - D. Ferrand	\$0	\$5,019	5,019	-
Meals	\$0	\$1,936	1,936	-
Total Direct Costs	\$836,500	\$837,822		

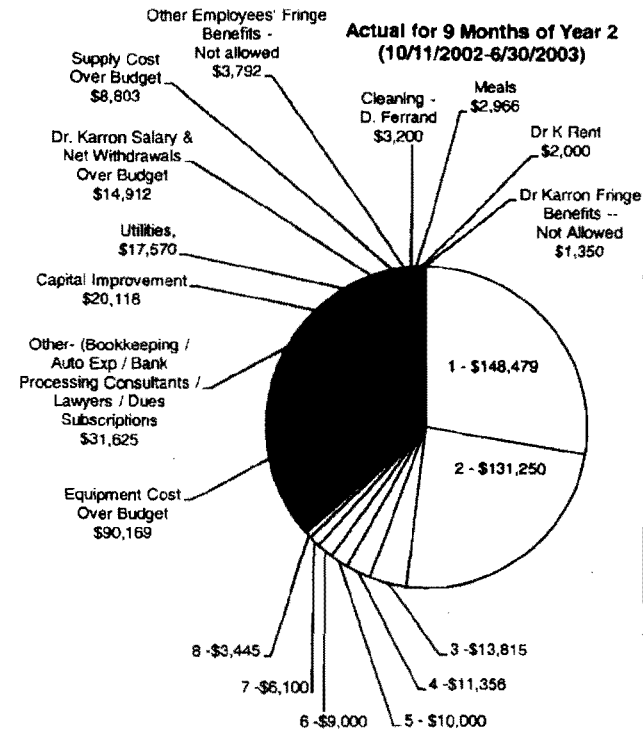
10% Adjustment
TOTAL RED \$268,638



**Budget for 9 months of Year 2
(10/1/2002 - 6/30/2003)**



**Actual for 9 Months of Year 2
(10/11/2002-6/30/2003)**



Amendment # 2 - 1/4/02	10/11/2002 - 6/30/2003			
	Budget	CASI Spent	Difference	% Difference
Other Employees' Salaries	\$150,000	\$148,479	(1,521)	-1.01%
Dr. Karron Salary	\$131,250	\$146,162	14,912	11.36%
Subcontractor	\$110,000	\$8,100	(103,900)	-94.45%
Other Employees' Fringe Benef	\$51,000	\$13,815	(37,185)	-72.91%
Dr. Karron Fringe Benefits	\$44,625	\$19,890	(24,736)	-55.43%
Equipment	\$9,000	\$99,169	90,169	1001.88%
Travel	\$9,000	\$3,445	(5,555)	-61.72%
Audits	\$0	\$10,000	10,000	-
Other- (Bookkeeping / Auto Exp / Bank Processing Consultants / Lawyers / Dues Subscriptions	\$0	\$31,625	31,625	-
Capital Improvement	\$0	\$20,118	20,118	-
Utilities	\$0	\$17,570	17,570	-
Supply Cost	\$0	\$8,803	8,803	-
Other Employees' Fringe Benef	\$0	\$3,792	3,792	-
Cleaning - D. Ferrand	\$0	\$3,200	3,200	-
Meals	\$0	\$2,966	2,966	-
Dr K Rent	\$0	\$2,000	2,000	-
Dr Karron Fringe Benefits -Not.	\$0	\$1,350	1,350	-
Total Direct Costs	\$504,875	\$538,483		

10 % Adjustment
TOTAL RED \$196,504

